

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
ABERDEEN DIVISION**

**UNITED STATES OF AMERICA, and )  
CONSUMER FINANCIAL )  
PROTECTION )  
BUREAU, )**

**Plaintiffs, )**

**vs. )**

**BANCORPSOUTH BANK, )**

**Defendant. )**

**Case No. 1.16-cv-00118-MPM-DAS**

**UNOPPOSED MOTION FOR MODIFICATION OF CONSENT ORDER**

BancorpSouth Bank (“BancorpSouth” or the “Bank”), pursuant to Paragraph 87 of the Consent Order entered by the Court on July 25, 2016, hereby moves the Court to modify Paragraph 1(g) of the Consent Order to permit additional census tracts in the Memphis Metropolitan Statistical Area (“Memphis MSA”) to qualify for potential investment under the Loan Subsidy Program. Plaintiffs do not oppose this Motion. In support of this Motion, the Bank states as follows.

**POINTS AND AUTHORITIES**

1. The Court entered a Consent Order resolving Plaintiffs’ claims in this matter on July 25, 2016. (Doc. # 8.)
2. Paragraph 56 of the Consent Order requires the Bank to invest \$4,000,000 “in a program to extend Mortgage Loans to Qualified Applicants in the Memphis MSA on a more

affordable basis than [the Bank] otherwise makes available ....” (the “Loan Subsidy Program”).

3. A “Qualified Applicant” is defined, in part, as an applicant for certain mortgage loans relating to a “property located in a majority-minority neighborhood in the Memphis MSA that will serve as the borrower’s principal dwelling.” (Consent Order ¶ 1(l).)
4. Paragraph 1(g) of the Consent Order defines a “majority-minority neighborhood” as “a census tract with a minority population of 50 percent or greater based on 2010 census data.”
5. On December 8, 2016, following entry of the Consent Order, the United States Census Bureau released updated demographic data for the Memphis MSA based on the American Community Survey 5-year estimate data for the period of 2011 through 2015 (“2015 ACS 5-year Estimate Data”). (See Exhibit 1 (<https://www.census.gov/programs-surveys/acs/news/data-releases/2015/release.html>).)
6. The 2015 ACS 5-year Estimate Data is used by the Federal Financial Institutions Examination Council (“FFIEC”) – of which the Acting Director of Plaintiff Consumer Financial Protection Bureau is a member – in some of its census data files. (See Exhibit 2 ([https://www.ffiec.gov/press/pr101911\\_ACS.htm](https://www.ffiec.gov/press/pr101911_ACS.htm)).)
7. Based on the 2015 ACS 5-year Estimate Data, eight tracts in the Memphis MSA that were not designated as majority-minority based on the 2010 census are now designated as majority-minority. BancorpSouth desires to ensure that these census tracts are eligible for potential investment under the Loan Subsidy Program.

8. Based on the foregoing, BancorpSouth moves the Court to modify the definition of “Majority-minority neighborhood” in Paragraph 1(g) of the Order as follows:

g. “Majority-minority neighborhood” means a census tract with a minority population of 50 percent or greater based on 2010 U.S. census data or 2015 ACS five-year estimate data, provided the tract was designated as part of the Memphis MSA in 2010.

(emphasis added to indicate proposed modification).<sup>1</sup>

9. The effect of the proposed change is to include within the scope of potential eligibility for investment through the Loan Subsidy Program eight additional census tracts that were in the Memphis MSA as of 2010 and are now designated as majority-minority based on 2015 ACS 5-year Estimate Data, while also maintaining for eligibility the 161 census tracts that were designated as majority-minority based on 2010 census data.
10. This Motion is unopposed, and is filed in good faith and not for purposes of delay. No party will be prejudiced by granting the relief set forth in this Motion.

### **CONCLUSION**

WHEREFORE, BancorpSouth Bank respectfully requests, and Plaintiffs do not oppose, that the Court modify Paragraph 1(g) as set forth above, in order to permit additional census tracts in the Memphis MSA to qualify for potential investment under the Loan Subsidy Program.

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<sup>1</sup> For the area designated as the Memphis MSA in 2010, see OMB Bulletin No. 10-02 at 1, app. at 40 (Dec. 1, 2009), *available at* <https://www.census.gov/programs-surveys/metro-micro/about/omb-bulletins/historical.html>.

Respectfully submitted,

/s/ Anand S. Raman

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 21<sup>st</sup> day of May, 2018, I electronically filed the foregoing with the Clerk of the Court using the ECF system, which sent notification of such filing to Plaintiffs' counsel.

/s/ Heath A. Fite

OF COUNSEL